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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/672,729
Applicant : Charlotte Carsh and Kim Le
Filed : September 26, 2003
Title : Three Dimensional Nail Stencils and Method of Use
Group Art Unit : 3732
Examiner : T. Manahan
Docket No. : C08.102

Declaration Under 37 C.F.R. 1.132

County of Denver

State of Colorado

Affiant, Kim Le states as follows:

Affidavit of Kim Le

I, Kim Le, being duly deposed and sworn, hereby state:

- 1) That I am a cosmetologist with over 12 years of experience in manicures, pedicures, lacquer and acrylic nails, nail designs, French tips, silk wraps, and the like.
- 2) That I am licensed since April 1994.
- 3) That I maintain current expertise in my field by attending seminars.
- 4) That the present invention involves forming a three-dimensional design on a nail within a stencil cutout having walls, and leaving the design on the nail when the stencil is removed. In particular, a liquid such as acrylic is poured into the cutout to form the three dimensional design.
- 5) That the teachings of Polito 5,427,121 regard forming a flat design on a nail by applying a flat stencil to the nail and spraying nail polish over the stencil.
- 6) That the teachings of Maxwell 4,135,020 regard forming a raised design on a door or the like using a routed out stencil sheet having an area of several square feet and a thickness of at least ¼ inch, applying modeling paste to the routed out areas, forcing the paste into the routed out areas with a squeegee, and allowing the paste to dry for about 24 hours.

7) That the methods and materials of Maxwell could not be adapted for use on nails. The size and thickness of the stencil are inappropriate for nails. The paste is not hard enough and would not stick to nails. The paste cannot be poured. The paste takes about 24 hours to harden, and nail design customers must be able to use their nails within an hour or so after application.

8) That the methods and materials of Polito cannot be used to form three-dimensional designs on nails. Spray on nail polish forms a very thin layer, and the stencils of Polito are very thin (e.g. adhesive foil paper)

9) That combining the methods and materials of Polito and Maxwell would not provide a workable solution to forming a three-dimensional design on a nail.

10) That a person in the field of cosmetology would not look to methods of forming wall designs without specific teaching and motivation.

All statements made in the foregoing Affidavit, which are from the Affiant's own knowledge, are true and all statements made on information and belief are believed to be true.

Further Affiant sayeth not.

Subscribed and sworn to before me this 7th Day of July, 2006

Megane Macloskey
Notary Public

My Commission Expires March 6, 2008

Respectfully Submitted,

By

Kim Le
Kim Le

Dated July 7, 2006

